IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal Nos. 1424 & 1425 of 2001

1.The Special Tahsildar,
(LA), Neighbourhood Scheme,
Namakkal, Salem District.

2.The Government of Tamil Nadu,
rep. by the Commissioner and
Secretary to Government,
Housing and Urban Development,
Fort St. George, Madras-9. .. Appellants in both appeals

Vs.

1.Panja Gounder
2.Anai Gounder
3.Chinnathambi
4.Palanisamy
5.Swaminathan .. Respondents in WA.1424/2001

1.Chinnadurai
2.Subramanian
3.Velusamy ... Respondents in WA.1425/2001

Writ appeals filed under Clause 15 of the Letters Patent against the common order of this Court dated 25.04.1996 made in W.P.Nos.7648 and 7663 of 1986.

For Appellants : Mr.C.Thirumaran,
Government Advocate

For Respondents 1 to 3 : Mr.S.Venugopal

For Respondents 4 & 5 : No appearance

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COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeals are directed against the common order of the learned single Judge dated 25.04.1996 made in W.P.Nos.7648 and 7663 of 1986, in and by which, the learned single Judge, remitted the matter to the first respondent, The Special Tahsildar, (LA), Neighbourhood Scheme, Namakkal, Salem District, for fresh disposal.

2. Heard the learned Government Advocate for the appellants as well as the learned counsel appearing for the respondents.

3. After taking us through the particulars furnished in the counter affidavit and the reasoning of the learned single Judge, the learned Government Advocate has contended that inasmuch as enquiry under Section 5-A of the Tamil Nadu Land Acquisition Act (hereinafter referred to as "the Act") was properly conducted in accordance with the provisions of the Act and the Rules, the learned single Judge is not justified in remitting the matter to the Special Tahsildar once again for fresh disposal. It is the grievance of the respondents herein-petitioners before the learned single Judge and the land owners that no proper enquiry under Section 5-A of the Act (Central Act) was conducted and according to the counsel, the learned single Judge is perfectly right in remitting the matter before the Land Acquisition Officer for fresh enquiry. In the light of the controversy, which pertains to 5-A enquiry, we summoned the original records and the learned Government Advocate placed all the records.

4. We have also verified the details furnished in the counter affidavit filed before the learned single Judge. It is not in dispute that the land owners were issued notice for award enquiry. In fact, it is their own case that they had submitted their objections before the Land Acquisition Officer. The information furnished in the counter affidavit as well as the proceedings of the Land Acquisition Officer, particularly 5-A enquiry, show that on receipt of the objections from the land owners, the same were forwarded to the requisitioning body viz., Tamil Nadu Housing Board. The particulars also show that the Executive Engineer of the Tamil Housing Board submitted their remarks with reference to the objection of the land owners. Thereafter, fresh notice was sent on

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12.04.1982 to the land owners enclosing copies of remarks of the Executive Engineer. The file relating to 5-A enquiry produced by the Government Advocate shows that the Executive Engineer and Administrative Officer, Salem Housing Unit, Salem, has furnished his replies to all the objection petitions and copies of the replies were furnished to the objectors concerned in ROC No.1362/81(A) dated 05.03.1982 and they have been (land owners) directed to appear before the Special Tahsildar(Land Acquisition), Neighbourhood Scheme, Salem on 19.03.1982 for enquiry to be conducted as required by Rule 3(b) of the Rules framed under Section 55(1) of (Land Acquisition) Neighbourhood Scheme, Salem for making further representations, if need be. The file also shows that the intimation has also been given to Administrative Officer, Salem Housing Unit, Salem about the enquiry and he has been requested to depute his representative to be present at the time of enquiry. The Executive Engineer and the Administrative Officer, Salem Housing Unit, Salem was represented by the Head Surveyor of his office at the time of enquiry. The then Land Acquisition Officer inspected the lands covered by the objection petitions on 08.11.1981, 09.11.1981 and 10.11.1981 and finally on 16.03.1982. The file further shows that thereafter, the Land Acquisition Officer, after considering the objections as well as the remarks of the requisitioning body in the presence of the land owners, has passed the order on 19.03.1982. The said proceeding is available in 5-A records in pages 1 to 10. After verifying all those details, the Land Acquisition Officer, in view of the specific stand taken by the requisitioning body, Executive Engineer and the Administrative Officer, Salem Housing Unit, Salem, that the lands are essentially required to frame compact Housing Scheme and the land owners will be paid adequate compensation according to the provisions of the Act with structures, trees etc, recommended to the Government for passing Declaration under Section 6.

5. It is not in dispute that based on the report of the Special Tahsildar, the Government has passed declaration on 24.04.1983. On a perusal of the details appended to the declaration makes it clear that the Government, on going through the objection of the land owners, remarks of the requisitioning body as well as the opinion of the Land Acquisition Officer, after satisfying itself that the lands are very much required, issued a declaration under Section 6 of the Act. When all the above mentioned details are available in the file as well as in the counter affidavit filed by the Special Tahsildar, Neighbourhood Scheme, Namakkal as well as the Secretary to Government, Housing and urban Development Department, Madras-9, in view of the fact that the required details have been specifically stated in the counter affidavit of the respondents therein and also from the file, we are of the considered opinion that there is no need to remit the matters to the Special Tahsildar for fresh enquiry under Section 5-A of the Act. Infact the learned single Judge has not assigned any reason to remit the matter to the Special Tahsildar, we are satisfied that the same

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cannot be sustained. Accordingly, the common order of the learned single Judge passed in W.P.Nos.W.P.Nos.7648 and 7663 of 1986 dated 25.04.1996 is set aside. The writ appeals are allowed. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Special Tahsildar,
(LA), Neighbourhood Scheme,
Namakkal, Salem District.

2.The Commissioner and
Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development,
Fort St. George, Madras-9.

+ 1 cc to Government Pleader, High Court, Madras SR.30364

+ 1 cc to Mr.S. Venugopal, Advocate SR No.30225

W.A.Nos. 1424 & 1425
of 2001

MKJ(CO)
SR/25.7.2006

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